

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 759
HOUSE BILL 1143

AN ACT TO PROVIDE FAIR DISCOVERY TO DEFENDANTS IN CRIMINAL PROSECUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-903(d) is amended by inserting between the phrase "mechanical or electronic recordings" and the phrase "tangible objects" the phrase "buildings and places, or any other crime scene,".

Sec. 2. G.S. 15A-903 is amended by adding two new subsections to read:

"(f) Statements of State's Witnesses.

- (1) In any criminal prosecution brought by the State, no statement or report in the possession of the State that was made by a State witness or prospective State witness, other than the defendant, shall be the subject of subpoena, discovery, or inspection until that witness has testified on direct examination in the trial of the case.
- (2) After a witness called by the State has testified on direct examination, the court shall, on motion of the defendant, order the State to produce any statement of the witness in the possession of the State that relates to the subject matter as to which the witness has testified. If the entire contents of that statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.
- (3) If the State claims that any statement ordered to be produced under this section contains matter that does not relate to the subject matter of the testimony of the witness, the court shall order the State to deliver that statement for the inspection of the court in camera. Upon delivery the court shall excise the portions of the statement that do not relate to the subject matter of the testimony of the witness. With that material excised, the court shall then direct delivery of the statement to the defendant for his use. If, pursuant to this procedure, any portion of the statement is withheld from the defendant and the defendant objects to the withholding, and if the trial results in the conviction of the defendant, the entire text of the statement shall be preserved by the State and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this subsection, the court, upon application of

the defendant, may recess proceedings in the trial for a period of time that it determines is reasonably required for the examination of the statement by the defendant and his preparation for its use in the trial.

(4) If the State elects not to comply with an order of the court under subdivision (2) or (3) to deliver a statement to the defendant, the court shall strike from the record the testimony of the witness, and direct the jury to disregard the testimony, and the trial shall proceed unless the court determines that the interests of justice require that a mistrial be declared.

(5) The term 'statement', as used in subdivision (2), (3), and (4) in relation to any witness called by the State means

- a. a written statement made by the witness and signed or otherwise adopted or approved by him;
- b. a stenographic, mechanical, electrical, or other recording, or a transcription thereof, that is a substantially verbatim recital or an oral statement made by the witness and recorded contemporaneously with the making of the oral statements."

Sec. 3. G.S. 15A-903(a)(2) is rewritten to read as follows:

"(2) To divulge, in written or recorded form, the substance of any oral statement made by the defendant, regardless of to whom the statement was made, within the possession, custody, or control of the State, the existence of which is known or by the exercise of due diligence may become known to the prosecutor."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.